

### **REMARKS/ARGUMENTS**

In view of the following remarks and arguments, Applicant believes the pending application is in condition for allowance and respectfully requests reconsideration.

#### **I. Status of the Claims**

Claims 4 and 8-10 are presently pending. Claims 1-3 and 5-7 were previously canceled without prejudice or disclaimer of the subject matter contained therein. Applicant amends claim 8, and adds new claims 11 - 15. No new matter is introduced. Support for the amendments may be found, for example, with reference to paragraphs [0034], [0037], [0044] and [0046] of the publication corresponding to this application (U.S. Patent Publication No. 2004/0193131).

#### **III. Rejections under 35 U.S.C. § 103(a)**

Claims 4, 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,039,716 to Jessup et al. ("Jessup") in view of U.S. Patent No. 3,799,165 to Wennerblom et al. ("Wennerblom"). Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Jessup in view of Wennerblom and U.S. Patent No. 5,885,265 to Osborn, III et al. ("Osborn"). Applicant amends claim 8 to further define the nature of his invention, and respectfully traverses the rejections under 35 U.S.C. § 103.

In amended independent claim 8, Applicant claims:

**8. A sanitary tampon comprising:**

an absorber including a flat absorbent layer made of an absorbent fibrous material and a hydrophobic liquid-permeable layer covering both surfaces of the absorbent layer, said flat absorbent layer having a plurality of small open recesses dispersed in both surfaces of said flat absorbent layer and extending toward an inner area of said absorbent layer, and said flat absorbent layer being folded along three fold lines extending in a longitudinal direction of said flat absorbent layer to have

three clefts defined between adjacent folds and then compressed over a substantially entire length into a column shape, wherein the three clefts open on a column surface in a direction parallel to the longitudinal direction,

wherein the small open recesses are formed by embossing said flat absorbent layer prior to folding and compression so that a fiber density of the absorbent layer is increased in a vicinity of the small open recesses.

(Emphasis added).

Jessup discloses a laterally expandable tampon which comprises a flat sheet that is rolled into a cylinder, folded into an M-shaped profile and compressed into a cylindrical pledget (see, e.g., abstract of Jessup). The Examiner suggests the Jessup teaches Applicants' claimed plurality of small recesses dispersed in both surfaces of the absorbent layer and extending inwardly. Applicant respectfully disagrees.

At Col. 5: 28 - 31 of Jessup, Jessup indicates that a cover 16 that extends around the cylindrical pledget may be spot bonded along an overlap area 20 of the cover. The Examiner suggests that a plurality of recesses will be formed in the rolled sheet underlying the cover 16 as a result of this activity. However, and in sharp contrast to Applicant's invention as claimed in amended independent claim 8, because the flat sheet of Jessup is rolled at this time and Jessup teaches spot bonding only at the overlap area 20 of the cover, Applicant respectfully submits that Jessup fails to teach or suggest that the small recesses will be dispersed in both surfaces of the flat absorbent layer. Applicant further submits that Jessup fails to teach Applicant's claimed flat absorbent layer being folded along three fold lines. Rather, in the tampon of Jessup, the absorbent layer is folded after being rolled into a tubular configuration.

The Examiner acknowledges that Jessup fails to teach Applicant's claimed three clefts open on a column surface in a direction parallel to the longitudinal direction of the tampon  
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(rather, Jessup's clefts open in a direction that is perpendicular to the longitudinal direction of the tampon). However, the Examiner suggests that this feature is taught by Wennerblom.

Wennerblom discloses a tampon and insertion tool (see, e.g., abstract of Wennerblom). As illustrated for example by FIGs. 3 and 6 of Wennerblom, the tampon is formed from one or two “socket-like” or “tubular” portions that are folded and compacted into a rectangular shape on the insertion tool to facilitate insertion (see, e.g., Col. 2: 48 - 50 and Col. 3: 43 - 53 of Wennerblom). Therefore, and in sharp contrast to Applicant’s invention as claimed in amended independent claim 8, Wennerblom like Jessup fails to teach or suggest Applicant’s claimed flat absorbent layer being folded along three fold lines. Rather, Wennerblom’s invention is directed to folding tubular absorbent layers.

Moreover, Applicant respectfully submits that one skilled in the art at the time of Applicant's invention would not have been motivated to combine the Wennerblom and Jessup references in the manner suggested by the Examiner. Jessup teaches a laterally expandable tampon. In Jessup, the rolled sheet is folded in a M-shaped profile and compressed for insertion as a pladget into an applicator with the intention that, once dispensed from the applicator, the M-shaped pladget will unfold and expand to form a mildly heart-shaped triangular profile for conforming to the interior shape of the vagina (see, e.g., FIG. 14 of Jessup). If, as the Examiner suggests, Jessup is modified according to the teachings of Wennerblom to "have three clefts that open in a direction parallel to the longitudinal absorber ... to ensure that the absorber retains its folded shape" (emphasis added), Jessup's tampon will clearly fail to perform its intended unfolding function. Accordingly, Applicant respectfully submits that that one skilled in the art at the time of invention would have had no motivation to make the suggested combination, and

even if so motivated, would have failed to have had a reasonable probability of success for achieving the stated objectives for Jessup's tampon device.

With reference to claim 10, which depends from amended independent claim 8, the Examiner suggests that Osborn teaches an interlabial article having topsheet 28 that has a plurality of apertures within the ranges of densities and diameters claimed for the small open recesses in dependent claim 10. With reference to amended independent claim 8, Applicant notes that such apertures in the top sheet 28 have a relation to only one side of an absorbent core 22. Moreover, Osborn neither teaches nor suggests that the apertures in topsheet 28 extend into the surface on the absorbent core toward an inner area.

Accordingly, for at least these reasons, Applicant submits that amended independent claim 8 is not made obvious by any combination of the cited references, and stands in condition for allowance. As claims 4, 9 and 10 depend from allowable independent claim 8, Applicant further submits that dependent claims 4, 9 and 10 are also allowable for at least this reason.

Therefore, Applicant respectfully requests that the rejections of claims 4 and 8 - 10 under 35 U.S.C. § 103 be withdrawn.

#### IV. New Claims

Applicant adds new claims 11 - 15. As each of new claims 11 - 15 depends either directly or indirectly from allowable claim 8, Applicant submits that new claims 11 - 15 are also allowable for at least this reason.


**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

Dated:

Respectfully submitted,

By  44528 for

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